

******PLEASE NOTE THAT USE OF FIRE IN A PUBLIC ASSEMBLY (STREET PERFORMING) IS NOT ALLOWED IN CAMBRIDGE. IT IS NOT INCLUDED IN THIS ORDINANCE AS THE FIRE LAW PREDATES THE STREET PERFORMER ORDINANCE.*******

Section 12.16.170 Street performers.

The City Council finds that the existence in the City of street performers provides a public amenity that enhances the character of the City and seeks to encourage such performances to the extent that they do not interfere with the reasonable expectations of residents to the enjoyment of peace and quiet in their homes or to the ability of businesses to conduct their businesses uninterrupted. This section seeks to balance the interests of the performers with those of the residents and businesses of the City.

The City Council designates the Arts Council of the City to be the agent of the City primarily charged with the responsibility of supervising the provisions of this section.

A. Definitions.

1. "Perform" includes, but is not limited to, the following activities: acting, singing, playing musical instruments, pantomime, juggling, magic, dancing, reading, puppetry, sidewalk art (working with non-permanent, water-soluble media, i.e., chalk, pastels, or watercolors directly on the pavement), and reciting.

Perform shall not include the production of items for sale.

2. "Performer" means a person who has obtained a permit pursuant to this section.

3. "Public areas" means public sidewalks, parks, playgrounds and other Cambridge pedestrian areas.

B. Prohibition.

No person may perform in a public area without a permit issued pursuant to subsection C of this section.

C. Permit.

1. A permit shall be issued by the Cambridge Arts Council to each applicant therefor in exchange for a completed application and a fee of forty dollars .

2. A completed application for a permit, and the permit itself, shall contain the applicant's name, residence address and telephone number, and shall be signed by the applicant.

3. A permit shall be valid from the date on which it is issued through the end of that calendar year.

4. A permit shall be nontransferable, and shall contain the permit number of the applicant and the year in which the permit is valid. Each member of a group of performers who play together shall be required to obtain an individual permit. In no event shall any group of performers, identified as such in their application and noted on their permits, be charged more than one hundred and sixty dollars total for permits for group members.

5. Upon issuing a permit, the Arts Council shall also give the performer a copy of this section.

6. If a performer loses his or her permit, one replacement permit per year may be obtained for a fee of fifteen dollars.

D. Display of Permit.

A performer shall clearly display his or her permit while performing, and shall allow inspection of the permit by any Cambridge police officer or staff person of the Cambridge Arts Council on request.

E. Permitted Performances.

1. Performances may take place in the following locations:

a. In public areas, except within one hundred feet of an elementary and/or secondary school, library, or church while in session, a hospital at any time, and except public areas excluded by the City Council, the Commissioner of Public Works, or the Chief of Police pursuant to subsection F of this section;

b. On private property, with the written permission of the owner or other person in control of such property;

c. In public areas where an authorized street fair or public festival is being conducted, with the permission of the sponsor of such fair or festival.

2. Performances may take place at the following times:

a. Monday through Thursday, between 7:00 a.m. and 11:00 p.m.
Friday, between 7:00 a.m. and 12:00 midnight p.m.
Saturday, between 7:00 a.m. and 12:00 midnight p.m.
Sunday, between 12 noon and 11:00 p.m.

b. In the public space at the intersection of Mt. Auburn Street and JFK Street, known as Winthrop Park, performances may take place at the following times:

Monday through Thursday, between 7:00 a.m. and 10:00 p.m.
Friday, between 7:00 a.m. and 11:00 p.m.
Saturday, between 8:00 a.m. and 11:00 p.m.
Sunday, between 12:00 noon and 10:00 p.m.

3. a. No performer or group of performers may generate noise exceeding a median sound level of eighty decibels measured at a distance of twenty-five feet from the performer or group of performers. A performer or group of performers may use sound amplification as long as this sound level is not exceeded. Upon a complaint by a resident, a designated staff person from the Cambridge Arts Council shall, with the permission of the resident, measure the sound level inside the residential dwelling. If the sound level exceeds a median sound level of fifty decibels, and exceeds the background noise by at least ten Db(A), the performer or group of performers causing the excessive sound level shall either turn down the music or move to a distance from the residence so as to reduce the sound level within these limitations. Background noise for this purpose shall mean L90.

b. Drums shall be inaudible at a distance of one hundred fifty feet.

4. A performer may not create an undue interference with the passage of the public through a public area. If a performer attracts a crowd sufficient to obstruct the public way, a police officer may disperse the portion of the crowd that is creating the obstruction. The police officer shall not cause the performer to leave the location unless efforts to move the crowd fail to adequately protect the public safety or order. A police officer shall not ask the performer to leave the location unless all other means of restoring the public safety or order have been exhausted.

5. No performer or group of performers may perform less than fifty feet from another performer or group of performers.

6. A performer may request contributions or money or property at a performance, provided that no sign requesting contributions shall exceed twelve inches by eighteen inches in size. Contributions may be

received in any receptacle, such as an open musical instrument case, box or hat. Performers may offer for sale recordings of their own work, in the form of records, cassettes, videotapes or compact discs. On sidewalks, displays must not obstruct handicap ramps, doorways, or windows (i.e., performers shall not tape or post signs or posters on windows or lean displays against windows so as to obstruct a clear view through the window), and must not exceed more than 20% of the width of the sidewalk from the property line of the premises in front of which the display is installed. Notwithstanding the foregoing, a performer may set up a display on the public sidewalk in front of a doorway to a business if the business is not open, assuming said display meets all other requirements of this section. In public areas other than sidewalks, no such display shall exceed twenty-five square feet, and it shall be prohibited to place a carpet, rug, blanket, or other such covering over grass in a public place.

F. Exclusion of Public Areas.

1. A specific public area may be excluded from performances in accordance with constitutional standards by decision of the City Council after a public hearing notice of which shall be advertised once in a local newspaper no less than fourteen days prior to said hearing. In addition a written notice shall be sent to the Street Artists Guild no less than ten days prior to said hearing; or

a. Based upon evidence presented to the City Council during its deliberations on the adoption of the ordinance codified in this section, the City Council designates Brattle Street on both sides from the northerly side of Church Street to the northerly lot line of 76 Brattle Street as an excluded area, thereby prohibiting performances in that area.

b. Due to the proximity of Quincy Park to a residential area, a hotel, and a library, the City Council designates Quincy Park an excluded area, thereby prohibiting performances in that area.

c. During the major reconstruction of the Central Square area scheduled to begin during 1996, the City Council finds that, based upon evidence elicited at public hearing, issues of serious public safety will occur during said reconstruction of streets, sidewalks and infrastructure, and finds further that it will be necessary to temporarily exclude performances from said areas of reconstruction. The City Council hereby authorizes the City Manager or his designee to issue notices of exclusion from areas to be defined by the City Manager as the reconstruction proceeds. The City Manager shall report to the Council when the reconstruction has been completed.

2. By decision of the Chief of Police in the case of an emergency: any holder of a license who disputes the need for said emergency exclusion may appeal to the City Council for review.

3. By decision of the Commissioner of Public Works in the case of an emergency regarding a park or playground: any holder of a license who disputes the need for said emergency exclusion may appeal to the City Council for review.

G. Penalties.

1. Noncriminal Disposition.

Whoever violates any provision of this section may be penalized by a noncriminal disposition as provided in G.L. c. 40, s. 21D. For purposes of this section, the following officials shall be enforcing persons: police officers and/or Cambridge Arts Council staff. The penalty for each violation will be twenty-five dollars.

2. Suspension of Permit.

The Cambridge Arts Council and/or the Cambridge police may suspend a permit for no more than thirty days if:

a. a performer is found to have knowingly provided false information in the application; or

b. a performer has received three noncriminal dispositions within one calendar year.

3. Revocation of Permit.

The Cambridge Arts Council may revoke a permit for the remainder of the calendar year if a performer has received five noncriminal dispositions during that calendar year.

4. Before suspending or revoking a permit, the Arts Council must hold a public hearing, after ten days written notice to the performer setting forth the facts constituting the basis for the proposed suspension or revocation.

5. A performer may not receive a permit unless all tickets from the previous year have been paid.

H. Exclusivity.

The provisions of this section take precedence over any other City regulations or ordinance applicable to street performances. To the extent other City regulations or ordinances are applicable and are inconsistent with this section, this section shall govern. Sound levels generated by street performances shall be governed by this section and not by the Cambridge City noise ordinance.

I. Peace and Quiet.

A performance in accordance with this ordinance shall be presumed not to constitute a disturbance of the peace or quiet.

J. Severability.

The provisions of this section are severable, and if any part of this section should be held invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of the section and the remainder of the section shall stay in full force and effect. (Ord. No. 1176, Revised, 04/22/96; Ord. No. 1176, Revised, 04/22/96; Ord. No. 1176, Revised, 04/22/96)